

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS DEVELOPMENT )	)	
FINANCE AGENCY, )	)	
Plaintiff, )	)	
	)	
v. )	)	CA. No. 04CV10203 PBS
	)	
ADP MARSHALL, INC., A FLUOR DANIEL )	)	
COMPANY AND FIREMAN'S FUND )	)	
INSURANCE COMPANY )	)	
Defendants, )	)	
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ADP MARSHALL, INC. )	)	
Plaintiff-in-Counterclaim, )	)	
	)	
v. )	)	
	)	
MASSACHUSETTS DEVELOPMENT )	)	
FINANCE AGENCY, )	)	
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ADP MARSHALL, INC. )	)	
Third-Party Plaintiff, )	)	
	)	
v. )	)	
	)	
ALLIED CONSULTING ENGINEERING )	)	
SERVICES, INC. et al. )	)	
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**PRE-TRIAL DISCLOSURES OF ADP MARSHALL, INC.,  
PURSUANT TO FED.R.CIV.P. RULE 26(a)(3)**

Now comes ADP Marshall, Inc. ("ADPM") in the above captioned matter and makes the following pre-trial disclosures in conformance with the Pre-Trial Order, with modifications, entered by this court on April 11, 2005 and with the Federal Rules of Civil Procedure.

**(A) Witnesses**

**Intended Witnesses**

1. Robert Greetham, former Project Manager for ADPM, now employed by Legatt McCall Properties, Boston, MA 617-422-7000; Mr. Greetham will offer testimony concerning the MDFA's claims concerning the

performance of the HVAC system as described in Richard Comeau's report and the architectural/roofing/window/wall panel concerns as described in Stephen Wessling's report. Mr. Greetham may also testify as to subcontractor performance with respect to these claims and the contractual obligations of the subcontractors.

2. Brian Metcalf, former Superintendent for ADPM, now residing in Rhode Island; Mr. Metcalf will offer testimony concerning the MDFA's claims concerning the performance of the HVAC system as described in Richard Comeau's report and the architectural/roofing/window/wall panel concerns as described in Stephen Wessling's report. Mr. Metcalf may also testify as to subcontractor performance with respect to these claims and the contractual obligations of the subcontractors.
3. Tom Hughes, Contracts Administrator for ADPM, Mr. Hughes is employed by Fluor NE at 75 Newman Avenue, Rumford, RI 401-438-3500; Mr. Hughes will offer testimony concerning the MDFA's claims concerning the performance of the HVAC system as described in Richard Comeau's report and the architectural/roofing/window/wall panel concerns as described in Stephen Wessling's report. Mr. Hughes may also testify as to subcontractor performance with respect to these claims and the contractual obligations of the subcontractors.

#### Possible Witnesses

1. Pete Maddison, Maddison Associates
2. Stephen Wessling, MDFA consultant
3. Richard Comeau, MDFA consultant
4. Steve Anderson, USF+G consultant
5. Roger Fuller, R&R Window
6. Ray Keough, ADPM/Delta employee
7. Richard Powers, R&R Window
8. William Goode, ADPM's HVAC consultant

#### (B) Designation of Witnesses Whose Testimony is Expected to be Presented by Deposition

1. None

#### (C) Identification of Documents or other Exhibits:

##### Expected Exhibits

1. Subcontracts between ADP Marshall ("ADPM") and the following: Allied Consulting Engineering Services, R&R Window Contractors, Delta Keyspan, Maddison Associates, Hartford Roofing Company, Andover Controls, and Spagnolo/Gisnees & Associates
2. Prime Contract between ADP Marshall and Massachusetts Development Finance Agency ("MDFA")
3. Surety Bonds furnished by USF+G in relation to Hartford Roofing

4. Amendments and Modifications to the Subcontracts
5. Amendments and Modifications to the Prime Contract
6. Notice and demand letters to the third party defendants seeking indemnification and/or defense
7. Letter dated April 30, 2004 to USF+G
8. All of Spagnolo/Gisness' architectural drawings/plans for the project
9. All of Symmes Manni and McKee's architectural drawings/plans and programmatic requirements for the project
10. Transmittal dated December 12, 2001 with from ADPM to Erland with Commissioning Scope for Operating Systems
11. HVAC Meeting No. 2 dated July 14, 2001
12. MDFA's RFP for the project dated May 5, 2000 and the RFP for the FIT UP work dated February 14, 2001
13. Temporary Certificate of Occupancy dated August 17, 2001
14. Hughes Sheet Metals Drawings of the HVAC Ducts
15. ADPM Events # 62 (all revs), 63, 49, 87, 57, 58
16. ADPM COR's #27, 12, 13
17. Intake louver and sound attenuator submittals, resubmittals and approvals
18. Reliable Products cut sheets and product data for the intake louver
19. Reports prepared by Richard J. Comeau
20. Reports and photographs prepared by Stephen Wessling
21. Letter dated January 19, 2001 from Mike Zimmerman re: Core Air Handling Unit
22. The Trane Company Order Report run 10/29/04 for the project
23. Trane proposal to Delta Keyspan dated February 14, 2001
24. Email dated March 20, 2001 from Paul Pennie to Neal Hannon re: COR 27
25. All installation drawings prepared by Delta Keyspan
26. ADPM RFI # 69,
27. SMMA memo dated February 16, 2001 re: RFI 69
28. Letter dated May 25, 2001 from Mike Zimmerman re: HVAC review meeting 5/18/01
29. Delta Keyspan COR's
30. Documents produced by Allied bates #1142, 752, 753, 754, 755, 398, 399, 197, 2641, and 1681
31. 1999 ASHRAE Applications Handbook
32. 1997 ASHRAE Fundamentals Handbook
33. December 12, 2001 Transmittal with Commissioning Scope for Operating Systems dated September 19, 2001
34. HVAC Meeting No. 2 - minutes
35. ADPM Application for Payment No. 15
36. Certificate of Substantial Completion dated August 20, 2001
37. Summary payments to Hartford Roofing
38. August 29, 2000 Letter from Mike Zimmerman to Raymond Keough
39. October 6, 2000 fax from Rob Greetham to Paul Pennie with memo of same date from Mark Maroni

40. September 25, 2001 memo from Leslie Glynn to Neal Hannon

Possible Exhibits

1. All documents identified and listed in the MDFA Pre-Trial Disclosures dated July 1, 2005
2. All the HVAC Meeting Minutes
3. Photographs taken by Tom Hughes during site visits since the initiation of this lawsuit
4. Photographs taken by Ken Elovitz during site visits since the initiation of this lawsuit
5. DALA final award and decision
6. DALA pre-hearing and post-hearing briefs
7. Accounting of attorneys fees incurred by ADPM in defending this lawsuit
8. All ADPM RFI's
9. All ADPM COR's
10. All ADPM Events

Respectfully Submitted,  
ADP Marshall, Inc.  
By its attorneys,



Andrew J. Tine, Esq. (BBO#633639)  
Haese, LLC  
30 Federal Street, 3<sup>rd</sup> Floor  
Boston, MA 02110  
(617) 428-0266

**CERTIFICATE OF SERVICE**

I, Andrew J. Tine, hereby certify that I have, on this 1<sup>st</sup> day of July 2005, served a copy of the foregoing on all counsel of record.

